

Application No.10/562,386

Attorney Docket: 2017-56

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REMARKS

This is in response to the Office Action dated November 20, 2006. Applicant has amended the application as set forth above. In more specific, claims 1-4 have been amended, and claims 5-6 have been added. All the features of the added and amended claims are fully supported by the originally filed application and the original claims. Thus, the amendments do not add new matter to the application. Upon the entry of the amendments, claims 1-6 are pending in this application. Applicant respectfully requests the entry of the amendments and reconsideration of the application.

Objection to the Drawings

The Examiner pointed out that the Figure 1 should be designated by a legend such as -- Prior Art--. In response, Applicant has amended Figure 1, and submitted the replacement drawing with this Response to the Action.

Objection to Specification

The Examiner objected the specification because of informalities. Applicant has amended the specification by amending the specification properly as in the above. Withdrawal of the objection is respectfully requested.

Discussion of Rejections under 35 U.S.C. §112, first paragraph

The Examiner rejected claim 1 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement (The Examiner mentioned and quoted "second paragraph", but Applicant assumes that the Examiner meant "first paragraph". Otherwise, please let us know). In response, Applicant respectfully submits that the limitations of semi-ring part, crook-part, and connection part are described in the original specification including Paragraphs [11], [23], and [27] and Figs. 2 and 3. Also, Applicant respectfully submits that the claim amendment overcomes the Examiner's rejection. Applicant respectfully requests withdrawal of this rejection under 35 U.S.C. §112, first paragraph.

Discussion of Rejections under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 1 and 4 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant respectfully submit that the claim amendment overcomes the Examiner's rejection for indefiniteness. Applicant respectfully requests withdrawal of this rejection under 35 U.S.C. §112, second paragraph.

Application No.10/562,386

Attorney Docket: 2017-56

Claim Rejections under 35 U.S.C. §103

The Examiner rejected claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over Goyena (US 1,914,418) in view of Koehler (US 2,251,139) and Zucker (US 2004/0116019). Applicant respectfully disagrees with the Examiner.

Prima Facie Case of Obviousness

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. In re *Plasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). To establish a *prima facie* case of obviousness, three basic criteria must be met: first, the prior art reference (or references when combined) must teach or suggest all the claim limitations; second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; finally, there must be a reasonable expectation of success. M.P.E.P. §2143.

Disclosure of Goyena

Goyena teaches a nose protector with a protector (A), a cupped side plate (14), and a strainer (22). The protector (A) includes two halves (5 and 6) hingedly connected along their lower sides. The cupped side plate (14) provides socket portions (15) for receiving the alar nasies (16) of the nose (N). The strainer (22) includes flaps (23 and 24), between which a piece of gauze (28) is removably disposed, the flaps (23 and 24) including plates (18), each having an opening (See, e.g., lines 30-84, page 2, and Figs. 1, 3, and 6).

Disclosure of Koehler

Koehler teaches a nasal filter having body coils (10, 11), a filtering element (16), a curved support (12), and a hook (14). The edge of the filtering element (16) protrudes at (17) through the body coils (10, 11). The curved support (12) joins the upper coils (10) near the rear of the filtering element (16) at (13) (See, e.g., lines 22-44, page 1, lines 21-26, page 2, and Figs. 1-5).

Application No.10/562,386

Attorney Docket: 2017-56

Disclosure of Zucker

Zucker teaches a non-woven industrial fabrics with improved barrier properties.

No Prima Facie Case of Obviousness Has Been Established

The Examiner said that Goyena discloses: a support frame (A) including a wing part (16); a filter part (18); and a receiving pocket (28). Applicant respectfully submits that Goyena's protector (A) is not a frame but plates; also it covers nearly half of the nose below the top of the ala-naises. In contrast, the support frame (20) of the current invention is made of steel wire (23) and it covers the nostrils and the tip or end of the nose (See, e.g., paragraph [25], Fig. 2 and Fig. 3).

In addition, the Examiner said that Goyena's (16) is a wing part, but it is ala-naises of the nose.

The Examiner also said that the Goyena's upper wall (18) is a filter part and that the Goyena's gauze (28) is a receiving pocket. Applicant respectfully submits that the upper wall (18) is not a filter part, but a wall having an opening (21), and that the gauze (28) does not include any pocket in it. The Goyena's gauze (28) might be a filter part. Still, Goyena does not teach a receiving part. The gauze (28) may have fine holes, but the fine holes themselves cannot receive/hold other material including silver fiber and tourmaline particle. In order to be a receiving pocket, the silver fiber or tourmaline particles should be able to be inserted into the receiving pocket and held there (See, e.g., paragraph [22] of the original specification of the present invention).

The Examiner said that Zucker teaches the use of nano-fiber fabrics. However, Zucker still does not suggest a receiving pocket. That is, Zucker does not remedy the deficiencies of Goyena regarding the receiving pocket of the filter part.

The Examiner said that Koehler teaches a settling unit that includes a groove part to which a magnet is attached and that stainless steel and silver have magnetic properties. Applicant respectfully disagrees with the Examiner. The Koehler's body coils (10, 11) are used to hold the filtering element (16) in between. In order for the magnet to be attached inside a ring portion formed by the body coils as in the present invention, the filtering element (16) will be blocked by the magnet, resulting in blocking the air flow through the filtering element (16). Combining the Koehler's body coils or potential groove part with a magnet drastically undermines the purpose of the nasal filter. Also, since the silver has a *diamagnetic* property,

Application No.10/562,386

Attorney Docket: 2017-56

the Koehler's body coils made of silver are not attracted to the magnet, but *repelled* by the magnet.

Therefore, it would not have been obvious, to one of ordinary skill in the art at the time of invention, to modify the nasal filter of Goyena to include the settling unit as taught by Koehler.

As such, the combination of Goyena, Zucker, and Koehler does not provide every element of the amended claim 1 and its amended and added dependent claims 2-6. Therefore, the combination does not establish a *prima facie* case of obviousness. Applicant respectfully requests allowance of claims 1-6.

For claim 2, the Examiner said that Park (US 2004/0173216) teaches a receptacle (22) with fine holes on the surface. Applicant respectfully disagrees with the Examiner. The assistant receptacle (50) of the present invention is attached to the crook part (42) and inserted into the deep nose, while the Park's health promoting resin (22) is provided in a filter part between the inner and outer layers, not inside the nose hole, but covering almost half of the whole face. It would not be obvious to dispose the health promoting resin (22) into the nostrils.

For claim 3, the Examiner said that the device of Goyena, Zucker, and Koehler disclose the wing part (16) of the support frame (A). Applicant respectfully disagrees with the Examiner for the similar reasons as discussed above.

For claim 4, the Examiner said that Goyena as modified by Koehler teaches that the settling unit is separated from the filter body. Applicant respectfully disagrees with the Examiner for the similar reasons as discussed above. Furthermore, even though Goyena as modified by Koehler could have taught the settling unit somehow, it would not be able to be separated from the filter body since a magnet would not be used to fix it to the filter body due to the diamagnetism of the body coils made of silver.

Dependent Claims

Although applicant has not addressed all the issues of the dependent claims, applicant respectfully submits that applicant does not necessarily agree with the characterization and assessments of the dependent claims made by the examiner, and applicant submits that each claim is patentable on its own merits. Claims 2-6 are dependent either directly or indirectly on claim 1. Therefore, Applicant respectfully requests prompt allowance of the claims.

Application No. 10/562,386

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Conclusion

In view of the amendments and remarks made above, it is respectfully submitted that claims 10-14 are in condition for allowance, and such action is respectfully solicited. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

Respectively submitted,

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